

Serial No. 10/532,687
Amendment C filed November 3, 2008
Response to Office Action mailed August 1, 2008

REMARKS

Reconsideration of this application and the rejection of claims 1-12 and 14-15 are respectfully requested. Applicant has attempted to address every objection and ground for rejection in the Office Action dated August 1, 2008 (Paper No. 20080731) and believes the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

As a preliminary matter, there are no co-pending U.S. applications that set forth similar subject matter to the present claims.

I. Rejections Under 35 U.S.C. §112

Claims 1-12 and 14-15 stand rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement. Applicant has amended the claims to clarify the language of the claims and submit that the rejections have been overcome through amendment. As such, Applicant respectfully requests that the rejections under 35 U.S.C. § 112 be removed and the application be allowed as presented.

Specifically, the Examiner alleges that the claim language stating “fractionating under a nitrogen atmosphere the eluted portion of the rabbit skin based on molecular weight” is not described in the specification. Applicant has amended the specification to remove the claim language “based on molecular weight” and therefore, believes this rejection has been overcome.

Serial No. 10/532,687
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In addition, Claims 1-12, 14 and 15 were rejected as being indefinite for reciting “feeding the rabbit having rabbit skin tissues vaccinated with vaccine virus.” Amended claim 1 now recites, among other things, “feeding the rabbit having the vaccinated rabbit skin tissues.” Applicant believes this is sufficient to clarify that the claim element requires providing food to the rabbit from which the skin is eventually obtained.

Claim 11 stands rejected because “the rabbit skin inflammatory tissues” has no antecedent basis. Applicant has amended claim 11 to include “the rabbit skin inflamed tissue” as recited in claim 1. Therefore, Applicant believes this rejection has been overcome.

Claims 14 and 15 stand rejected for being unclear as to whether the claims are drawn to skin per se or to a drug or health food. As indicated below, Applicant has amended claim 1 so that it is now a process claim instead of a product-by-process claim. Similarly, Applicant has amended claims 14 and 15 so they are directed to the process for obtaining a drug and the process of obtaining a health food, respectively. As such, Applicant believes claims 14 and 15 are now in condition for allowance. Accordingly, the Section 112 rejections are respectfully traversed.

II. Rejections Under 35 U.S.C. §102

Claims 1-12, 14, and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,057,324 to Shibayama et al. (“Shibayama”). The Examiner admits that Shibayama does not teach all of the limitations regarding how the rabbit skin is

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produced. Features of the present invention not taught by Shibayama include: feeding the rabbit, each of the claimed strains of the vaccinia, types of rabbit, and the amount of the virus used. Applicant has amended claim 1 to now recite a process for obtaining a rabbit skin instead of the previous product-by-process claim. Therefore, Applicant submits that claim 1, and all claims depending from claim 1, are distinguishable over Shibayama since Shibayama does not disclose all features of the present invention. Further, Applicant submits that new claim 16 similarly contains features not disclosed in Shibayama. Accordingly, the Section 102 rejection is respectfully traversed.

III. Rejections Under 35 U.S.C. §103

Claims 1-12 and 14-15 stand rejected under 35 U.S.C. §103, as being obvious in view of Shibayama. As indicated above, Applicant has rewritten claim 1 as a process claim instead of a product-by-process claim. Therefore, Applicant respectfully submits that, as demonstrated above, the presently claimed subject matter differs substantially from Shibayama. Shibayama does not teach, suggest, or disclose subject matter such as feeding the rabbit, each of the claimed strains of the vaccinia, types of rabbit, and the amount of the virus used. Further, new claim 16 also should be allowed over the art of record for the same reasons. As such, Applicant submits the present claims are distinguishable over Shibayama and therefore, this rejection is respectively traversed.

Serial No. 10/532,687
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IV. Conclusion

In view of the above-identified amendments and remarks, Applicant respectfully submits that the claims in their present form are allowable over the issues raised in the Office Action mailed August 1, 2008. In the event that there are further issues which may be resolved by a telephone interview, the Examiner is urged to contact Applicant's undersigned Attorney at the telephone number listed below.

Respectfully submitted,

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